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JADE T. BUTAY
DIRECTOR

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STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

April 13, 2023

To: The Honorable Scot Z. Matayoshi, Chair,
The Honorable Andrew Takuya Garrett, Vice Chair, and
Members of the House Committee on Labor and Government Operations

Date: Thursday, April 13, 2023

Time: 9:30 a.m.

Place: Conference Room 309, State Capitol & via Videoconference

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.C.R No. 134 S.D.1 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONTINUE TO RECOGNIZE AND ACCEPT THE RIGHT OF A PROVIDER OF SERVICE TO ASSIGN THE RIGHT TO PARTICIPATE IN A WORKERS' COMPENSATION BILLING DISPUTE TO A BILLING COMPANY; REVIEW THE WORKERS' COMPENSATION LAW FOR PROPOSED AMENDMENTS TO ENSURE THAT SERVICE PROVIDERS MAY ASSIGN THE RIGHT TO NEGOTIATE A BILL DISPUTE TO A BILLING COMPANY; AND INCLUDE THE PROPOSED AMENDMENTS IN A REPORT TO THE LEGISLATURE PRIOR TO THE REGULAR SESSION OF 2024.

I. OVERVIEW OF PROPOSED LEGISLATION

DLIR **supports the intent** of this measure requesting the DLIR to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company; to review the workers' compensation law for proposed amendments to ensure that service providers may assign the right to negotiate a bill dispute to a billing company; and to include the proposed amendments in a report to the legislature prior to the 2024 legislative session.

II. CURRENT LAW

§12-15-1 HAR, "Provider of service" means any person or entity who is licensed, certified, recognized, or registered with the Department of Commerce and Consumer Affairs (DCCA) and who renders medical care, medical services, or medical supplies in accordance with Chapter 386, HRS.

§386-1 provides that “Medical care”, “medical services”, or “medical supplies” means every type of care, treatment, surgery, hospitalization, attendance, service, and supplies as the nature of the work injury requires, and includes such care, services and supplies rendered or furnished by a licensed or certified physician, dispensing optician, physical therapist, physical therapist assistant as recognized pursuant to section 461J-3(e), nurse, advanced practice registered nurse as recognized pursuant to chapter 457, occupation therapist, certified occupational therapy assistant as recognized pursuant to chapter 457G, or licensed massage therapist as recognized pursuant to chapter 452.

§386-21(c) provides that, when a dispute exists between an insurer or self-insured employer and a medical services provider regarding the amount of a fee for medical services, the Director may resolve the dispute in a summary manner as the Director may prescribe.

§12-15-94(d), HAR, In the event a reasonable disagreement relating to specific charges cannot be resolved, the employer or provider of service may request intervention by the director in writing with notice to the other party.

II. COMMENTS ON THE SENATE CONCURRENT RESOLUTION

The DLIR recognizes and accepts the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

SCR-134-SD-1

Submitted on: 4/12/2023 7:37:52 AM

Testimony for LGO on 4/13/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Workers' Comp Physicians	Work Injury Medical Association of Hawaii - WIMAH	Support	Written Testimony Only

Comments:

To: Rep. Scot Z. Matayoshi, Chair

Rep. Andrew Takuya Garrett, Vice Chair

Members of the Committee on Labor & Government Operations

Support for SCR 134

Work Injury Medical Association of Hawaii (WIMAH) represents the medical providers treating injured workers here in Hawaii. We strongly support SCR 134 which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

SCR 134 provides in part:

1. The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
2. Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
3. Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
4. These opponents are urging employers and carriers to refuse to recognize the right of billing companies to participate in disputes.
5. If these opponents are successful, this may restrict the ability of a provider of service to effectively treat an injured worker and adversely impact the main goal of the workers' compensation system, which is to heal injured workers and return them to work as soon as reasonably possible.

As such, WIMAH fully supports this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

Thank you for your consideration.

Gary Okamura, MD, President

Work Injury Medical Association of Hawaii

SCR-134-SD-1

Submitted on: 4/12/2023 7:18:36 AM

Testimony for LGO on 4/13/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cathy Wilson	Individual	Support	Written Testimony Only

Comments:

Support for SCR 134 SD1

I strongly support SCR 134 SD1, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company; and to review the workers' compensation law for proposed amendments to ensure that service providers may assign the right to negotiate a bill dispute to a billing company; and include the proposed amendments in a report to the legislature prior to the regular session of 2024.

SCR 134 SD1 provides in part:

1. The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
2. Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
3. Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
4. These opponents are urging employers and carriers to refuse to recognize the right of billing companies to participate in disputes.
5. If these opponents are successful, this may restrict the ability of a provider of service to effectively treat an injured worker and adversely impact the main goal of the workers' compensation system, which is to heal injured workers and return them to work as soon as reasonably possible.

As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company. Further, having the Department propose amendments to law to clarify this concept also makes sense.

Thank you for your consideration.

